



NEWS

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SUMMARY OF CASES ACCEPTED DURING THE WEEK OF DECEMBER 8, 2003

[This news release is issued to inform the public and the press of cases that the Supreme Court has accepted and of their general subject matter. The description or descriptions set out below do not necessarily reflect the view of the court, or define the specific issues that will be addressed by the court.]

#03-145 People v Athar, S119975. (D037485; 112 Cal.App.4th 73; San Diego County Superior Court; SCD145045.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses. This case includes the following issue: Can an enhancement be imposed under Penal Code section 186.10, subdivision (c), for “money laundering” a sum exceeding a specified dollar amount, where the defendant was not convicted of money laundering under section 186.10, subdivision (a), but instead was convicted only of conspiracy to commit money laundering?

#03-146 People v. Ault, S119948. (D040184; 111 Cal.App.4th 1411; San Diego County Superior Court; SCD156220.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense. This case presents the following issue: Did the trial court err in finding prejudice from juror misconduct and granting a motion for new trial on that ground?

#03-147 Avila v. Citrus Community College Dist., S119575. (B158572; 111 Cal.App.4th 811; Los Angeles County Superior Court; KC037803.) Petition for review after the Court of Appeal reversed the judgment in a civil action. This case presents the following issues: (1) Did the defendant community college district have a special relationship giving rise to a legal duty of care to a student from another community

(over)

college who was injured while participating in a pre-season intercollegiate baseball game? (2) Does Government Code section 831.7 immunity for hazardous recreational activities apply to the player's claims for personal injury due to the defendant's allegedly negligent conduct?

#03-148 In re Hawthorne, S116670. Original proceeding. In this case, which is related to the automatic appeal in People v. Hawthorne (1992) 4 Cal.4th 43, the court issued an order to show cause limited to the following issues: Is petitioner entitled to relief from the judgment of death on the ground that he is mentally retarded within the meaning of Atkins v. Virginia (2002) 536 U.S. 304?

#03-149 Morris v. De La Torre, S119750. (D040278; 111 Cal.App.4th 1047; San Diego County Superior Court; GIS004607.) Petition for review after the Court of Appeal reversed the judgment in a civil action. This case includes the following issue: Does a business owner who is not otherwise liable for violent third party criminal conduct on an adjacent parking lot nonetheless have a legal duty to summon aid for a victim of such criminal conduct so that the owner may be held liable for negligently failing to summon such aid?

#03-150 In re David L., S119976. (C042781; unpublished opinion; Sacramento County Superior Court; JD216956.) Petition for review after the Court of Appeal reversed an order in a dependency proceeding. The court ordered briefing deferred pending decision in In re S.B., S112260 (#03-14), which presents the following issues: (1) Must the juvenile court make a specific order regarding parental visitation after a legal guardian is appointed for a child under Welfare and Institutions Code section 366.26, subdivision (c)(4), or may the court delegate visitation decisions to the guardian? (2) May the validity of the trial court's visitation order be challenged on appeal in the absence of an objection to that order in the trial court?

#03-151 Stanley v. California State Lottery Com., S120121. (C041036; 112 Cal.App.4th 168; Sacramento County Superior Court; 00AS05463.) Petition for review after the Court of Appeal reversed an order awarding attorney fees. The court ordered briefing deferred pending decision in Graham v. DaimlerChrysler Corp., S112862 (#03-26), which includes the following issue: Should California reconsider the propriety of

awarding attorneys' fees under the California private attorney general statute (Code Civ. Proc. § 1021.5) to a party who did not receive a favorable judgment but whose lawsuit was the "catalyst" inducing the other party to modify its behavior, in light of the United States Supreme Court's recent disapproval of that theory in interpreting certain federal attorneys' fees statutes in Buckhannon Board & Care Home, Inc. v. West Virginia Dept. of Health and Human Resources (2001) 532 U.S. 598?

DISPOSITION

#02-21 In re Robert B., S103022, was dismissed and remanded to the Court of Appeal in light of the 2002 amendment to Penal Code section 466. (Stats. 2002, ch. 335, § 1.)

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